

July 23, 2013

MEMORANDUM TO THE TRUSTEES

FROM THE PRESIDENT and CHIEF EXECUTIVE OFFICER

SUBJECT: Awards of Fund Benefits from the Western New York Economic Development Fund Recommended by the Western New York Power Proceeds Allocation Board

SUMMARY

The Trustees are requested to accept the recommendations of the Western New York Power Proceeds Allocation Board (“WNYPPAB”) and approve the award of Fund Benefits from the Western New York Economic Development Fund to the eligible applicants listed in Exhibit “A,” and authorize the other actions described herein with respect to such applicants and awards.

For informational purposes, Exhibit “B” lists (1) projects and applicants the WNYPPAB has determined are ineligible for Fund Benefits, (2) projects the WNYPPAB has determined are not being recommended for an award of Fund Benefits, (3) applications for Fund Benefits that have been withdrawn, and (4) applications that were deferred for future consideration. No action by the Trustees is required on any of these matters.

BACKGROUND

1. Western New York Power Proceeds Allocation Act

On March 30, 2012, Governor Cuomo signed into law the Western New York Power Proceeds Allocation Act (the “Act”). The Act provides for the creation, by the Authority, of the Western New York Economic Development Fund. The Fund consists of the aggregate excess of revenues received by the Authority from the sale of Expansion Power (“EP”) and Replacement Power (“RP”) produced at the Niagara Power Project that was sold in the wholesale energy market over what revenues would have been received had such energy been sold on a firm basis to an eligible EP or RP customer under the applicable tariff or contract.

Under the Act, an “eligible applicant” is a private business, including a not-for-profit corporation. “Eligible projects” is defined to mean “economic development projects by eligible applicants that are physically located within the State of New York within a thirty-mile radius of the Niagara power project located in Lewiston, New York that will support the growth of business in the state and thereby lead to the creation or maintenance of jobs and tax revenues for the state and local governments.” Eligible projects include, for example, capital investments in buildings, equipment, and associated infrastructure owned by an eligible applicant for fund benefits; transportation projects under state or federally approved plans; the acquisition of land needed for infrastructure; research and development where the results of such research and

development will directly benefit New York state; support for tourism and marketing and advertising efforts for western New York state tourism and business; and energy-related projects.

Eligible projects do not include public interest advertising or advocacy; lobbying; the support or opposition of any candidate for public office; the support or opposition to any public issue; legal fees related to litigation of any kind; expenses related to administrative proceedings before state or local agencies; or retail businesses as defined by the board, including without limitation, sports venues, gaming and gambling or entertainment-related establishments, residential properties, or places of overnight accommodation.

Fund Benefits will be provided to successful eligible applicants in the form of grants. It is anticipated that Fund Benefits will be disbursed as reimbursement for expenses incurred by an Eligible Applicant for an Eligible Project.

At least 15% percent of Fund Benefits must be dedicated to eligible projects which are “energy-related projects, programs and services,” which is “energy efficiency projects and services, clean energy technology projects and services, and high performance and sustainable building programs and services, and the construction, installation and/or operation of facilities or equipment done in connection with any such projects, programs or services.”

Allocations of Fund Benefits may only be made on the basis of moneys that have been deposited in the Fund. No award may encumber future funds that have been received but not deposited in the Fund.

2. Western New York Power Proceeds Allocation Board

Under the Act, the WNYPPAB is charged with soliciting applications for Fund Benefits, reviewing applications, making eligibility determinations, and evaluating the merits of applications for Fund Benefits. WNYPPAB uses the criteria applicable to EP, RP and PP, and for revitalization of industry as provided in Public Authorities Law §1005. Additionally, WNYPPAB is authorized to consider the extent to which an award of Fund Benefits is consistent with the strategies and priorities of the Regional Economic Development Council having responsibility for the region in which an eligible project is proposed. A copy of these criteria (collectively, “Program Criteria”), adapted from WNYPPAB’s “Procedures for the Review of Applications for Fund Benefits,” is attached as Exhibit “C.”

The WNYPPAB met on March 4, 2013 and, in accordance with the Act, adopted by-laws, operating procedures, guidelines related to the application, and a form of application. At that time, WNYPPAB defined “retail business” to mean a business that is primarily used in making retail sales of goods or services to customers who personally visit such facilities to obtain goods or services.

WNYPPAB also designated the Western New York Regional Director of Empire State Development Corporation (“ESD”) to be its designee (“Designee”) to act on its behalf on all administrative matters. Among other things, the Designee was authorized to preform analyses of

the applications for Fund Benefits and make recommendations to WNYPPAB on the applications.

3. Application Process

In an effort to provide for the efficient review of applications and disbursement of Fund Benefits, the WNYPPAB established a series of application due dates coupled with a schedule of dates through the end of 2013 on which the WNYPPAB would meet to consider applications. In addition, the application process was promoted through a media release and with assistance from state and local entities, including the Western New York and Finger Lakes Regional Economic Development Councils, the Empire State Development Corporation and other local and regional economic development organizations within the State. A webpage was created that is hosted on WWW.NYPA.GOV/WNYPPAB with application instructions, a link to the approved application form and other program details including a contact phone number and email address staffed by the Western New York Empire State Development regional office. Additionally, ESD and NYPA hosted a meeting on June 25th, 2013 in Buffalo with a plethora of Western NY economic development agencies to further educate them on the Fund and how they can continue to market the Fund to their constituents.

As of May 7, 2013, the second application due date, the WNYPPAB had received 45 applications seeking over \$100 million in Fund Benefits. WNYPPAB's staff analyzed the applications and made recommendations to WNYPPAB concerning each of the applications based on eligibility requirements and Program Criteria. Copies of the recommendations from WNYPPAB staff to the WNYPPAB can be found in "Exhibit "D."

At its June 26, 2013 meeting, the WNYPPAB took the following actions on applications for Fund Benefits:

1. Recommendations for Awards of Fund Benefits

The WNYPPAB is recommending to the Trustees that the two applications listed on Exhibit "A," each receive an award of Fund Benefits in the amount indicated. The applicants have indicated that the proposed projects would directly create or retain 146 jobs in Western New York. The total to be expended on the proposed projects is expected to exceed \$23 million. These are the recommendations that are presently before the Trustees for consideration.

2. Other Determinations

For your information, Exhibit "B" lists those applications for which the WNYPPAB has determined will not receive a recommendation for Fund Benefits. These applications fall into four categories: (1) applications that WNYPPAB has determined will not receive a recommendation of Fund Benefits based on the application of Program Criteria; (2) applications that WNYPPAB has determined propose a project that is not an eligible project because it is a retail business as defined by WNYPPAB; (3) applications that have been withdrawn; and (4) applications that have been deferred for future consideration. This information is being provided

to the Trustees for their information only. No action by the Trustees is required with respect to these matters.

DISCUSSION

Under the Act, a recommendation for Fund Benefits by WNYPPAB is a prerequisite to an award of Fund Benefits by the Authority, and the Act authorizes the Authority to award Fund Benefits to an applicant upon a recommendation of the WNYPPAB. Upon a showing of good cause, the Authority has discretion as to whether to adopt the WNYPPAB's recommendation, or to award benefits in a different amount or on different terms and conditions than proposed by the WNYPPAB. In addition, the Authority is authorized to include within the contract covering an award ("Award Contract") such other terms and conditions the Authority deems appropriate.

Given the nascent stage of the proposed projects, it was not possible at this time to identify all of the terms and conditions that would be applicable to each award and memorialized in an Award Contract. With the Trustees' authorization, it is anticipated that the Authority, in consultation with ESD, will negotiate final terms and conditions with successful applicants after receipt of more detailed information concerning the projects and proposed schedules. In addition to appropriate business terms, staff anticipates that Award Contracts will contain provisions for periodic audits of the successful applicant for the purpose of determining contract and program compliance, and where appropriate, terms providing for the partial or complete recapture of Fund Benefits disbursements if the applicant fails to maintain agreed-upon commitments, relating to, among other things, employment levels and/or project element due dates.

RECOMMENDATION

The Vice President, Marketing recommends that:

- (1) the Trustees accept the recommendations of the WNYPPAB and authorize the awards of Fund Benefits to the applicants and in the amounts listed in Exhibit "A," conditioned upon an agreement to be negotiated with each applicant on the final terms and conditions that would be applicable to each award to be contained in an Award Contract approved by the President and Chief Executive Officer and approved by the Executive Vice President and General Counsel as to form;
- (2) the Senior Vice President – Economic Development and Energy Efficiency, or his designee(s), in consultation with ESD, be authorized to negotiate with the applicants concerning such final terms and conditions; and
- (3) the Senior Vice President – Economic Development and Energy Efficiency, or his designee, be authorized to execute on behalf of the Authority Award Contracts for each of the awards listed on Exhibit "A" subject to the forgoing conditions.

For the reasons stated, I recommend the approval of the above requested action by adoption of a resolution in the form of the attached draft resolution.

Gil C. Quiniones
President and Chief Executive Officer

Att.
WNYPPAB - Awards

RESOLUTION

WHEREAS, the Western New York Power Proceeds Allocation Board (“WNYPPAB”) has recommended that the Authority make awards of Fund Benefits from the Western New York Economic Development Fund (“Fund”) to the eligible applicants listed in Exhibit “A”;

NOW THEREFORE BE IT RESOLVED, That the Authority hereby accepts the recommendations of the WNYPPAB and authorizes the awards of Fund Benefits to the applicants and in the amounts listed in Exhibit “A,” conditioned upon an agreement between the Authority with each applicant on the final terms and conditions that would be applicable to each award and set forth in a written award contract (“Award Contract”) between the Authority and each applicant approved by the President and Chief Executive Officer and approved by the Executive Vice President and General Counsel as to form; and be it further

RESOLVED, That the Senior Vice President – Economic Development and Energy Efficiency, or his designee, in consultation with the Empire State Development Corporation, is authorized to negotiate with successful applicants concerning such final terms and conditions; and be it further

RESOLVED, That the Senior Vice President – Economic Development and Energy Efficiency, or his designee, is authorized to execute on behalf of the Authority Award Contracts for each of the awards listed on Exhibit “A” subject to the forgoing conditions; and be it further

RESOLVED, That the Chairman, the Vice Chairman, the President and Chief Executive Officer, the Chief Operating Officer and all other officers of the Authority are, and each of them hereby is, authorized on behalf of the Authority to do any and all things, take any and all actions and execute and deliver any and all agreements, certificates and other documents to effectuate the foregoing resolution, subject to the approval of the form thereof by the Executive Vice President and General Counsel.

Applicants Recommended for an Award of Fund Benefits

Line	Business	City	County	Economic Development Region	Project Description	Project Type	Recommended Award Amount	Total Project Cost	Jobs Retained	Jobs Created
1	Ascension Industries, Inc	North Tonawanda	Niagara	Western NY	Produce a skid mounted system that converts post recycled municipal waste into green power	Business Investment Innovation/Entrepreneur Development	\$ 300,000	\$ 2,700,000	131	15
2	425 Michigan Avenue, LLC	Buffalo	Erie	Western NY	Workforce development to train unemployed Buffalo residents in the healthcare industry	Workforce Development/Business Investment/Infrastructure/Downtown Investment	\$ 500,000	\$ 21,086,889	TBD	TBD

Total: \$ 800,000

Projects Deemed Ineligible

Line	Business	City	County	Economic Development Region	Project Description	Classification
1	Kaleida Health	Buffalo	Erie	Western NY	Relocation of the Women and Children's Hospital of Buffalo to Buffalo Niagara Campus	Retail ¹
2	Marl Hutchinson	Buffalo	Erie	Western NY	Restaurant expansion	Retail ¹
3	Vazquez Family Service, LLC	Buffalo	Erie	Western NY	Establish a family medical practice	Retail ¹
4	Try-It Distributing Company, Inc.	Lancaster	Erie	Western NY	Compressed natural gas filling station open to the public and fleet conversion	Retail ¹

¹ In accordance with EDL § 189-a(5), the Board defines "retail business" to mean a business that is primarily used in making retail sales of goods or services to customers who personally visit such facilities to obtain goods or services.

Applicants Not Recommended for an Award

Line	Business	City	County	Economic Development Region	Project Description	Project Type
5	Buffalo Niagara Riverkeeper	Buffalo	Erie	Western NY	Develop a boat launch	Infrastructure/Downtown Investment
6	Buffalo Olmsted Parks Conservancy	Buffalo	Erie	Western NY	Train seasonal park employees	Workforce Development
7	Cleveland Biolabs	Buffalo	Erie	Western NY	Contribute to the support of operations for the Cancer Immunotherapy Division	Innovation/Entrepreneurship
8	Cornell Cooperative Extension of Niagara County	Lockport	Niagara	Western NY	Create a website to support agribusinesses	Tourism/Marketing
9	Empire State Shipper's Association, Inc.	Cheektowaga	Erie	Western NY	Create a mixed-use incubator	Business Investment
10	Forest Lawn Heritage Foundation	Buffalo	Erie	Western NY	Rebuild a retaining wall	Infrastructure/Downtown Investment
11	Martin House Restoration Corporation	Buffalo	Erie	Western NY	Interior restoration of the Darwin D. Martin House	Infrastructure/Downtown Investment
12	SiGNa Chemistry, Inc.	Niagara Falls	Niagara	Western NY	Build a new manufacturing facility to produce stabilized reactive metals	Business Investment
13	Time Release Sciences	Buffalo	Erie	Western NY	Provide working capital to build materials inventory	Business Investment

Withdrawn Applications

Line	Business	Classification
14	Alita USA Holdings	Withdrawn by applicant
15	Western New York Technology Development Center, Inc. d/b/a Insyte Consulting	Withdrawn by applicant
16	Trek, Inc.	Withdrawn by applicant
17	Photolitec, LLC	Withdrawn by applicant
18	Eden Valley Growers, Inc.	Withdrawn by applicant
19	Niagara Label Company, Inc.	Withdrawn by applicant

Applications Deferred for Further Analysis

Line	Business	Classification
20	Global Outreach Mission, Inc.	Deferred for further analysis
21	Lockport Main Street, Inc.	Deferred for further analysis
22	Field and Fork Network	Deferred for further analysis
23	Niagara University	Deferred for further analysis
24	Aquarium of Niagara	Deferred for further analysis
25	Michigan Street African American Heritage Corridor Commission, Inc.	Deferred for further analysis

Western NY Power Proceeds Allocation Board
Exhibit C

Criteria adapted from the Western NY Power Proceeds Allocation Board's
"Procedures for the Review of Applications for Fund Benefits"

1. The extent to which an award of Fund Benefits would be consistent with the strategies and priorities of the Regional Economic Development Council ("REDC") having responsibility for the region in which an Eligible Project is located.¹ The Western New York Regional Economic Development Council which is responsible for Eligible Projects in Erie and Niagara Counties Strategies & Priorities are:
 - Promote "Smart Growth" by investing in areas that infrastructure already exists and achieves certain goals, such as: preserving historic buildings; reviving downtowns; reviving main streets; investing in existing neighborhoods; and investing in former industrial sites. A project consistent with Smart Growth will also focus on: enhancing walkability; enhancing multiple modes of transportation; connecting disadvantaged communities to employment clusters; spurring mixed-use private investment in existing communities and preserving/enhancing natural lands and or resources.
 - Promote workforce development by increasing diversity in the labor force, developing and cultivating that includes workers with advancement potential, underemployed, unemployed and special population; align education and skills training to job market for current and future industry needs.
 - Foster entrepreneurship and new business formation and growth. Designing a plan that brings new technologies and/or products to the marketplace, increases new start ups in strategic industries and facilitates the commercialization of products that can lead to job growth in the Region.
 - Increase the industry profile of agriculture in WNY by: creating better access to markets; creating new products; creating new more efficient processes; creating strong regional brands; creating programs that promote careers in agriculture.
 - Utilize Western New York's proximity to Canadian and U.S. population centers to advance economic development in WNY. Bi-national projects will: utilize cross-border planning to create transportation and logistical infrastructure; improve operational relationships; promote the attractiveness of WNY as a hub for global trade.

¹ As provided for in EDL § 189-c(4), criteria 2-15 are adapted from the criteria for eligibility for Expansion Power, Replacement Power and Preservation Power under Public Authorities Law § 1005. The specific criteria identified in PAL § 1005(13)(b)(4)-(5) are relevant to power allocations under these programs but do not have any logical application to allocations of Fund Benefits. Therefore, the Board does not expect to use these criteria to evaluate applications for Fund Benefits. Additionally, in accordance with PAL § 1005(13), criteria 13-15 listed herein will only be used in the case of Eligible Projects which are proposed by Applicants as, and determined by the Board to be, "revitalization" projects.

- Position the WNY region as a global energy hub through new sources of clean energy, energy efficiency and energy efficient transportation.
- Support growth of advanced manufacturing by making research more available to manufacturers to help them innovate.
- Spur growth in the health and life sciences industry through improved commercialization, recruit high profile research talent and reducing the cost burden of healthcare while improving health outcomes.
- Expand the scope of higher education by increasing accessibility to Higher Education for communities that currently have limited access to educational opportunities; better aligning education with the industry needs and creating support structures for start-ups which will assist start-ups with commercialization, business planning, workforce preparation, facilities, etc.
- Grow visitors and visitor spending by raising the profile of WNY as a national and international destination; connect multiple tourist destinations in WNY; improve the profile of the WNY Gateway to the United States.

For more information on the Western New York Regional Economic Development Council please go to <http://regionalcouncils.ny.gov/content/western-new-york>.

2. The extent to which an award of Fund Benefits would be consistent with the strategies and priorities of the Regional Economic Development Council (“REDC”) having responsibility for the region in which an Eligible Project is located.² The Finger Lakes Regional Economic Development Council which is responsible for Eligible Projects in Orleans and Genesee Counties Strategies & Priorities can be found at: <http://regionalcouncils.ny.gov/content/finger-lakes>.
3. The number of jobs that would be created as a result of an award of Fund Benefits.
4. The applicant’s long term commitment to the region as evidenced the current and/or planned capital investment in applicant’s facilities in the region.
5. The ratio of the number of jobs to be created to the amount of Fund Benefits requested.
6. The types of jobs that would be created, as measured by wage and benefit levels, security and stability of employment.
7. The amount of capital investment, including the type and cost of buildings, equipment and facilities, proposed to be constructed, enlarged or installed.
8. The extent to which an award of Fund Benefits would affect the overall productivity or competitiveness of the applicant and its existing employment.
9. The extent to which an award of Fund Benefits may result in a competitive disadvantage for other business in the State.

² As provided for in EDL § 189-c(4), criteria 2-15 are adapted from the criteria for eligibility for Expansion Power, Replacement Power and Preservation Power under Public Authorities Law § 1005. The specific criteria identified in PAL § 1005(13)(b)(4)-(5) are relevant to power allocations under these programs but do not have any logical application to allocations of Fund Benefits. Therefore, the Board does not expect to use these criteria to evaluate applications for Fund Benefits. Additionally, in accordance with PAL § 1005(13), criteria 13-15 listed herein will only be used in the case of Eligible Projects which are proposed by Applicants as, and determined by the Board to be, “revitalization” projects.

10. The growth potential of the applicant's facilities and the contribution of economic strength to the area in which the applicant's facilities are or would be located.
 11. The extent of the applicant's willingness to satisfy affirmative action goals.
 12. The extent to which an award of Fund Benefits is consistent with state, regional and local economic development strategies and priorities and supported by local units of government in the area in which the business is located.
 13. The impact of an award of Fund Benefits on the operation of any other facilities of the applicant, and on other businesses within the region.
 14. That the business is likely to close, partially close or relocate resulting in the loss of a substantial number of jobs.
 15. That the applicant is an important employer in the community and efforts to revitalize the business are in long-term interests of both employers and the community.
 16. That a reasonable prospect exists that the proposed award of Fund Benefits will enable the applicant to remain competitive and become profitable and preserve jobs for a substantial period of time.
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Recommended Award: Exhibit "D"

Applicant Name:	425 Michigan Avenue LLC	REDC Region:	Western New York
Project Type:	Workforce Development/Business Investment/Infrastructure/Downtown Investment	County:	Erie
Industry:	Health/Life Sciences	Locality:	Buffalo
Amount Requested:	\$3,449,663	Start Date:	May 2013
		Finish Date:	December 2014
RECOMMENDED OFFER			
Recommended Total Award:	\$500,000		
Total Project Cost:	\$21,086,889		
% of Project Cost Recommended:	2.37 %		
REGIONAL IMPACT MEASUREMENTS			
Number of Jobs Retained:	TBD		
Number of Jobs Created:	TBD		
Average Salary of Jobs:	\$20,000		
Indirect Jobs Created	TBD		
Other Impact	200-250 people trained and placed annually		
PROJECT DESCRIPTION			
<p>This is a workforce development project that will focus on helping unemployed residents on the Eastside of Buffalo move into professions in the field of healthcare by putting them through CNA training. This project will include the construction of a 10,000 square foot educational facility located on the East side of the City of Buffalo. The facility will include a classroom setting, a care facility simulator, and an informational technology laboratory, each of which is critical to the successful education of a CNA.</p>			
OTHER ECONOMIC DEVELOPMENT BENEFITS RECEIVED FOR THIS PROJECT			
SOURCE		AMOUNT	
N/A		N/A	
PREVIOUS STATE ASSISTANCE OFFERED OR PROVIDED			
SOURCE		AMOUNT	
N/A		N/A	
BASIS FOR RECOMMENDATION			
<p>This applicant has demonstrated a strategy that will target an under-represented community and provide training and long term employment for those that are currently in need of such opportunities. By locating this training in a highly accessible area on the Eastside of Buffalo this project will create a much needed workforce development pipeline in the City of Buffalo.</p> <p>The building this applicant is renovating to house this project is the gateway to the most distressed area in all of the City of Buffalo and it will serve as the first major connection between the African</p>			

American Heritage Corridor and Larkinville. This project represents a great opportunity for the neighborhood the building resides in and for the community on the Eastside of Buffalo.

Recommended Award: Exhibit "D"

Applicant Name:	Ascension Industries, Inc.	REDC Region:	Western New York
Project Type:	Business Investment Innovation/Entrepreneur Development	County:	Niagara
Industry:	Advanced Manufacturing	Locality:	North Tonawanda
Amount Requested:	\$600,000	Start Date:	11/01/2013
		Finish Date:	12/31/2014
RECOMMENDED OFFER			
Recommended Total Award:		\$300,000	
Total Project Cost:		\$ 2,700,000	
% of Project Cost Recommended:		11%	
REGIONAL IMPACT MEASUREMENTS			
Number of Jobs Retained:		131	
Number of Jobs Created:		15	
Average Salary of Jobs:		\$60,000	
Indirect Jobs Created			
Other Impact			
PROJECT DESCRIPTION			
<p>Ascension has been presented with a manufacturing opportunity of a lifetime. We are the chosen builder of an innovative and patented technology developed in Ottawa that converts post recycled municipal waste into green power. We will produce the company's first skid mounted facility in North Tonawanda for shipment to a Canadian site where it will be deployed. This application supports the first build of this product and creates tremendous job growth opportunity for WNY.</p>			
OTHER ECONOMIC DEVELOPMENT BENEFITS RECEIVED FOR THIS PROJECT			
SOURCE		AMOUNT	
N/A		N/A	
PREVIOUS STATE ASSISTANCE OFFERED OR PROVIDED			
SOURCE		AMOUNT	
ESD		26,070	
ESD		40,000	
ESD		100,000	
ESD		50,000	
BASIS FOR RECOMMENDATION			

This applicant has demonstrated the ability to carry out a very progressive energy project that will lead to job creation in North Tonawanda. The project will create 15 new jobs with an average annual salary of \$60,000. This award will allow the company to expand the current capacity of their facility, equipment and staff in order ramp up for this project.

This project is on the cutting edge of clean energy technology as it will revolutionize municipal waste remediation. This company has truly demonstrated that this is a golden opportunity for the company and the Western New York Region.

Western New York Economic Development Fund ("Fund") Update¹
as of 06/30/2013

The Fund

Fund Balance at the Time of the Previous	\$23,210,204
Incremental Deposits to the Fund Since the Previous	\$0
Administrative Expenses Withdrawn:	\$0
Fund Benefits Disbursed to Date ² :	\$0
Fund Balance:	\$23,210,204

Award Activity

Amount of Total Approved Awards for Energy Related Projects to Date ³ :	\$0
<i>Awards for Energy Related Projects as a % of Total to Date⁴:</i>	<i>0%</i>
Amount of Total Approved Awards for All Other Project Types to Date:	\$6,200,000
Total Awards of Fund Benefits Approved by the Trustees to Date:	\$6,200,000

Total Funds Available to be Awarded: \$17,010,204

Total Award Recommendations Before the NYPA Trustees Today: \$800,000

Unutilized EP and RP as of July 1, 2013 (MW)⁵: 94

¹ The "Fund", known as the "Western New York Economic Development Fund", is created and administered by the New York Power Authority ("NYPA"). It is funded with the aggregate excess of revenues ("Net Earnings") received by NYPA from the sale of Expansion and Replacement Power produced at NYPA's Niagara Power Project that was sold in the wholesale energy market over what revenues would have been received had such Power been sold on a firm basis to an eligible Expansion or Replacement Power customer.

² Fund monies paid to a successful applicants are known as "Fund Benefits."

³ In accordance with EDL § 189-a(6), "energy-related projects, programs and services" means: (1) energy efficiency projects and services; (2) clean energy technology projects and services; (3) high performance and sustainable building programs and services; and (4) the construction, installation and/or operation of facilities or equipment done in connection with any such projects, programs or services.

⁴ As dictated by the Western New York Power Proceeds Allocation Act, a minimum of 15% of the funds awarded will go to "energy-related projects, programs and services".

⁵ Unutilized EP ("Expansion Power") and RP ("Replacement Power") consists of an estimate of both allocated power that has not been taken down by customers and unallocated power.